

2003 DRAFTING REQUEST**Bill**Received: **12/04/2002**Received By: **rmarchan**Wanted: **As time permits**

Identical to LRB:

For: **Suzanne Jeskewitz (608) 266-3796**By/Representing: **erin**This file may be shown to any legislator: **NO**Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - banking inst.**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Jeskewitz@legis.state.wi.us**Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us****Pre Topic:**

No specific pre topic given

Topic:

Regulating demand drafts

Instructions:

Redraft AB-784

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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→ Not Needed

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1?	rmarchan	1 12/9 jld	12/9 ps	12/9 setb			

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Marchant, Robert

From: Bilot, Erin
Sent: Tuesday, December 03, 2002 2:52 PM
To: Marchant, Robert
Subject: It's me again

Hi!

I have two more redrafts to request. I'm hoping that the redrafts are easier than just drafting new legislation. We want to redraft AB 784 and AB 875. Senator Erpenbach was the lead on both of those in the Senate, so I e-mailed Julie just to let her know that we've sent them in if they want to reintroduce them also. We just got the list of the drafts that we've requested. We're definitely putting the heaviest burden on you.

Thanks.

Erin

Erin Bilot
Office of Suzanne Jeskewitz
State Representative
24th Assembly District

History of Assembly Bill 784

ASSEMBLY BILL 784

An Act to amend 403.104 (6); and to create 403.103 (2) (hr), 403.104 (11), 403.416 (1) (f), 403.417 (1) (d), 404.104 (3) (fe), 404.207 (1) (f) and 404.208 (1) (d) of the statutes; relating to: regulating the negotiation and collection of demand drafts.

2002

02-07.	A.	Introduced by Representatives Jeskewitz, La Fave, Kestell, Sinicki, M. Lehman, J. Fitzgerald, Musser, Townsend, Krawczyk, Hahn, J. Lehman, Rhoades, McCormick, Richards, Albers, Plale, Olsen, Shilling, Lassa, Balow and Miller; cosponsored by Senators Erpenbach, Robson, Burke, Kanavas, S. Fitzgerald and Plache.	
02-07.	A.	Read first time and referred to committee on Financial Institutions	643
02-14.	A.	Public hearing held.	
03-05.	A.	Executive action taken.	
03-05.	A.	Report passage recommended by committee on Financial Institutions, Ayes 16, Noes 0	724
03-05.	A.	Referred to calendar	724
03-07.	A.	Read a second time	761
03-07.	A.	Ordered to a third reading	761
03-07.	A.	Rules suspended	761
03-07.	A.	Read a third time and passed	761
03-07.	A.	Ordered immediately messaged	761
03-08.	S.	Received from Assembly	628
03-08.	S.	Read first time and referred to committee on Privacy, Electronic Commerce and Financial Institutions	630
03-20.	S.	Failed to concur in pursuant to Senate Joint Resolution 1	653

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DU: 12-9
3
2001 ASSEMBLY BILL 784
NR

February 7, 2002 - Introduced by Representatives JESKEWITZ, LA FAVE, KESTELL, SINICKI, M. LEHMAN, J. FITZGERALD, MUSSEY, TOWNSEND, KRAWCZYK, HAHN, J. LEHMAN, RHOADES, MCCORMICK, RICHARDS, ALBERS, PLATF, OLSEN, SHILLING, LASSA, BALOW and MILLER, cosponsored by Senators ERPENBACH, ROBSON, BURKE, KANAVAS, S. FITZGERALD and PLACHE. Referred to Committee on Financial Institutions.

Reger

- 1 AN ACT *to amend* 403.104 (6); and *to create* 403.103 (2) (hr), 403.104 (11),
- 2 403.416 (1) (f), 403.417 (1) (d), 404.104 (3) (fe), 404.207 (1) (f) and 404.208 (1)
- 3 (d) of the statutes; **relating to:** regulating the negotiation and collection of
- 4 demand drafts.

Analysis by the Legislative Reference Bureau

This bill regulates the negotiation and collection of demand drafts. A demand draft is generally an instrument, similar to a check, which is created by a third party, often a merchant, under the purported authority of another person for the purpose of charging that person's account at a bank, savings and loan, credit union, or other banking institution (bank). Like a check, a demand draft contains the routing and account numbers necessary to route the demand draft through a bank's check clearing system. Unlike a check, though, a demand draft does not contain the signature of the account holder. Rather, it typically contains a statement such as "No signature required" or "Authorization on file."

Under Articles 3 and 4 of the Uniform Commercial Code (UCC), as enacted in this state, a demand draft is treated like a check. Thus, in order to be effective, a demand draft generally must be authenticated by the account holder, through the use of a signature or any other word, mark, or symbol executed or adopted by the account holder. The UCC imposes certain warranties with regard to this authentication. For example, when the third party that created the demand draft deposits it with his or her bank, the third party warrants that all signatures, words, marks, or symbols used to authenticate the demand draft are authentic and

ASSEMBLY BILL 784

authorized. The same warranty applies to any bank that subsequently handles the demand draft for collection, other than the account holder's bank. When the account holder's bank pays or accepts the demand draft, the person obtaining payment or acceptance warrants to the bank that the person has no knowledge that the signature of the account holder is unauthorized. The UCC permits the account holder's bank to charge the amount of a demand draft against the relevant account if, among other things, the demand draft is authorized by the account holder. In addition, the UCC requires the account holder to examine its bank statements in order to determine whether any payment by the bank was improper as a result of an unauthorized authentication.

This bill incorporates into the UCC additional warranties that apply specifically to demand drafts. Under this bill, a person who transfers a demand draft for consideration or who obtains payment for a demand draft from the account holder's bank warrants that the account holder authorized the creation of the demand draft according to the terms on its face. In addition, under the bill, when the third party that created the demand draft deposits it with his or her bank, the third party warrants that the account holder authorized the creation of the demand draft according to the terms on its face. The same warranty applies to any bank that subsequently handles the demand draft for collection, other than the account holder's bank.

The acceptance of demand drafts by certain telemarketers is currently regulated under federal law and rules of the department of agriculture, trade and consumer protection. This bill has no effect on those regulations and rules.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 403.103 (2) (hr) of the statutes [✓]is created to read:

403.103 (2) (hr) "Demand draft" [✓]~~—~~ [✓]s. 403.104 (11).

SECTION 2. 403.104 (6) [✓]of the statutes is amended to read:

403.104 (6) "Check" means a draft, other than a documentary draft, payable on demand and drawn on a bank or means a cashier's check or, teller's check, or demand draft.[✓] An instrument may be a check even though it is described on its face by another term, such as money order.

SECTION 3. 403.104 (11) [✓]of the statutes is created to read:

403.104 (11) (a) Except as provided under par. (b), "demand draft" means a writing that is not signed by a customer, as defined in s. 404.104 (1) (e),[✓] that is created

PWJ

ASSEMBLY BILL 784

1 by a 3rd party under the purported authority of the customer for the purpose of
2 charging the customer's account with a bank, that contains the account number of
3 that account, and that contains at least one of the following:

- 4 1. The customer's name.
- 5 2. A notation that the customer authorized the demand draft.
- 6 3. The statement "No signature required," "Authorization on file," or
7 "Signature on file," or words to that effect.

8 (b) "Demand draft" does not include a check drawn by a fiduciary, as defined
9 in s. 403.307 (1) (a). ✓

10 SECTION 4. 403.416 (1) (f) ✓ of the statutes is created to read:

11 403.416 (1) (f) If the instrument is a demand draft, the creation of the
12 instrument according to the terms on its face was authorized by the person identified
13 as the drawer.

14 SECTION 5. 403.417 (1) (d) ✓ of the statutes is created to read:

15 403.417 (1) (d) If the instrument is a demand draft, the creation of the
16 instrument according to the terms on its face was authorized by the person identified
17 as the drawer.

18 SECTION 6. 404.104 (3) (fe) ✓ of the statutes is created to read:

19 404.104 (3) (fe) ✓ "Demand draft" ^{→ = m} s. 403.104 (11). ✓

20 SECTION 7. 404.207 (1) (f) ✓ of the statutes is created to read:

21 404.207 (1) (f) If the item is a demand draft, the creation of the item according
22 to the terms on its face was authorized by the person identified as the drawer.

23 SECTION 8. 404.208 (1) (d) ✓ of the statutes is created to read:

ASSEMBLY BILL 784

SECTION 8

404.208 (1) (d) If the draft is a demand draft, the creation of the draft according to the terms on its face was authorized by the person identified as the drawer.

(END)

Emery, Lynn

From: Bilot, Erin
Sent: Thursday, February 13, 2003 3:43 PM
To: LRB.Legal
Subject: Draft review: LRB-1013/1 Topic: Regulating demand drafts

It has been requested by <Bilot, Erin> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-1013/1 Topic: Regulating demand drafts